

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

TRENTON SCHEIBE,

Plaintiff,

v.

Case No. 05-C-180-C

NATIONAL BOARD OF MEDICAL EXAMINERS,

Defendant.

AFFIDAVIT OF STEVEN G. ZECKER, Ph.D.

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Steven G. Zecker, being first duly sworn on oath, depose and state that:

1. I am an adult resident of the state of Illinois. I am a Clinical Psychologist and Associate Professor of Communication Sciences and Disorders and Director of Doctoral Studies in the Department of Communication Sciences and Disorders, Program in Learning Disabilities, at Northwestern University in Evanston, Illinois. A true and correct copy of my curriculum vitae is attached hereto as Exhibit 1.

2. Attached hereto as Exhibit 2 is a true and correct copy of an evaluation I prepared in January 2005 for the National Board of Medical Examiners ("NBME") recommending that Trenton J. Scheibe ("Scheibe") should not receive an accommodation of double testing time on Step 2 of the United States Medical Licensing Exam ("USMLE") for a claimed reading disorder.

3. For purposes of the instant litigation, I have re-reviewed the documents which I

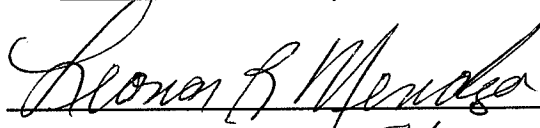
initially reviewed in preparing my January 2005 evaluation, and I have also reviewed my initial January 2005 evaluation. A true and correct copy of the report I prepared as a result of such review is attached hereto as Exhibit 3. Based on the information provided, my opinion has not changed. The available evidence does not demonstrate that Scheibe has an impairment that substantially limits his ability to read. To the contrary, all of the evidence establishes that Scheibe's performance on a number of academic indicators including reading fluency, speed and reading comprehension range from average to superior when compared with others of the same age from the general population.

I have read the above statement consisting of three (3) numbered paragraphs. The statements contained therein are true and correct to the best of my personal knowledge, and the opinions I have expressed are held to a reasonable degree of professional certainty.

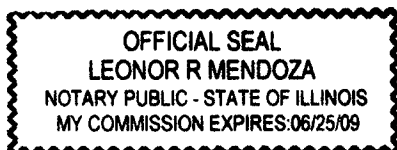
Dated this 3rd day of January, 2006.


Steven G. Zecker, Ph.D.

Subscribed and sworn to before me
this 3rd day of Jan. 2006, ____.


Notary Public, State of IL.

My commission [is permanent][expires 6/25/09]



CURRICULUM VITAE

NAME: Steven G. Zecker

UNIVERSITY ADDRESS:

Northwestern University
Department of Communication Sciences and Disorders
Program in Learning Disabilities
The Frances Searle Building
2240 Campus Drive #2-331
Evanston, Illinois 60208-3560
(847) 491-2477
e-mail: zecker@northwestern.edu

CURRENT TITLES: Associate Professor of Communication Sciences and Disorders and
Director of Doctoral Studies

EDUCATION:

B.A.	1974	The University of Michigan	Sociology and Psychology
M.A.	1978	Wayne State University	Psychology (Cognitive Processes)
Ph.D.	1981	Wayne State University	Psychology (Cognitive Processes)

Certification: Illinois Registered Clinical Psychologist #071-003595

PROFESSIONAL EXPERIENCE

1974	Teaching Fellow, Psychology, The University of Michigan
1976	Instructor, Psychology, Wayne State University
1975-1980	Graduate Assistant, Psychology, Wayne State University
1980-1981	Visiting Instructor, Psychology, Hamilton College
1981-1983	Visiting Assistant Professor, Psychology, Hamilton College
1983-1985	Visiting Assistant Professor, Psychology, Colgate University
1985-1991	Assistant Professor, Department of Communication Sciences and Disorders, Northwestern University
1991-Present	Associate Professor, Department of Communication Sciences and Disorders, Northwestern University

AWARDS

High Distinction, The University of Michigan, 1974
National Institute of Mental Health Traineeship, 1975-1978
Psi Chi Distinguished Service Award, 1983

RESEARCH GRANTS RECEIVED

Identifying Specific Deficits Among "Garden Variety" Poor Readers: A Pilot Study, Northwestern University Research Grants Committee (4/1/91-3/31/92) with Joanne Carlisle. Total amount of grant: \$700.

Auditory Assessment with AEPs in Children. National Institutes of Health (7/1/93 to 6/30/96) Co-Investigator (with N. Kraus (PI), T. McGee and T. Carrell). Total amount of grant: \$756,878. Renewal. Funded 01/97-12/00. Second renewal 1/01 to 12/03.

Neural Representation of Acoustic Elements of Speech. National Institutes of Health (7/1/02 to 6/30/06) Co-Investigator (PI: N. Kraus). Total amount of grant: \$2,860,508.

EDITORIAL RESPONSIBILITIES

Editorial Board, Learning Disabilities: Research and Practice

Ad hoc Reviewer, Brain and Language

Ad hoc Reviewer, Journal of Reading Behavior

Ad hoc Reviewer, Reading and Writing

Ad hoc Reviewer, American Educational Research Journal

PUBLICATIONS: SELECTED ARTICLES

Zecker, S.G. and Glaros, A.G. (1983). Validation of a proper control for subvocal electromyographic minimization paradigms. Journal of General Psychology, 107, 297-298.

Zecker, S.G., Tanenhaus, M.K., Glaros, A.G., & Whitman, R.D. (1984). Subvocal motor activity and contextual processing. Journal of Psycholinguistic Research, 13(3), 177-193.

Zecker, S.G., & DuMont, M. (1984). A shift from phonological recoding to direct access in reading as a result of previous exposure. Journal of Reading Behavior, 16(2), 145-158.

Zecker, S.G., Tanenhaus, M.K., Alderman, L., & Siqueland, L. (1986). Laterality of lexical codes in auditory word recognition. Brain and Language, 29, 372-389.

Zecker, S.G., & Zinner, T.E. (1987). Semantic code deficit for reading disabled children on an auditory lexical decision task. Journal of Reading Behavior, 19(2), 177-189.

Zecker, S.G. (1990). Visual similarity effects in detecting letter rhymes. Journal of General Psychology, 117(2), 171-179.

Driscoll, M.S., & Zecker, S.G. (1991). Attention deficit disorder (ADD): Are there subtypes?

Learning Disabilities, 2(2), 52-63.

- Zecker, S.G. (1991). Orthographic code development in normally-achieving and learning disabled children. Annals of Dyslexia, 41, 178-192.
- Trommer, B.L., Hoepfner, J.B., & Zecker, S.G. (1991). The go no-go test in attention deficit disorder (ADD) is sensitive to methylphenidate. Journal of Child Neurology, 6(Suppl.), 128-131.
- Kraus, N., McGee, T. J., Carrell, T. D., Zecker, S. G., Nicol, T. B., & Koch, D. B. (1996). Auditory neurophysiologic responses and discrimination deficits in children with learning problems. Science, 273, 971-973.
- Smith, C., Logemann, J., Burghardt, W., Carrell, T., & Zecker, S. G. (1997). Oral sensory discrimination of fluid viscosity. Dysphagia, 12, 68-73.
- Tremblay, K., Kraus, N., McGee, T., & Zecker, S. (1998 June). The time course of auditory learning: Neurophysiologic changes during speech-sound training. Proceedings of the 16th International Congress on Acoustics, 2023-2024.
- Bowen, R.W., Wright, B.A., Zecker, S.G. & Rudden, D. (1999). Temporal pattern-masking functions in dyslexic and normal observers. Investigative Ophthalmology and Visual Science, 40, 533.
- Bowen, R., Wright, B., & Zecker, S.G. (1999). Dyslexic observers show a backward time shift in masking of patterns of low spatial frequency. In Vision Science and Its Applications, O.S.A. Technical Digest (Optical Society of America, Washington, D.C.), 161-164.
- Bradlow, A.R., Kraus, N., Nicol, T., McGee, T., Cunningham, J, Zecker, S.G. & Carrell, T. (1999). Effect of lengthened formant transition duration on discrimination and representation of CV syllables by normal and learning disabled children. Journal of the Acoustical Society of America, 104(4), 2086-2096.
- Wright, B.A., Bowen, R.W. & Zecker, S.G. (2000). Nonlinguistic perceptual deficits associated with reading and language disorders. Current Opinion in Neurobiology, 10, 482-486.
- Zecker, S.G. (2000) Underachievement and learning disabilities in children who are gifted. Talent Development, Spring, 18-23.
- Cunningham, J., Nicol, T., Zecker, S. & Kraus, N. (2000) Speech-evoked neurophysiologic responses in children with learning problems: Development and behavioral correlates of perception. Ear and Hearing, 21(6), 554-568.
- Hemmer, S.A., Pasternak, J.F., Zecker, S.G. & Trommer, B.L. (2001). Stimulant therapy and seizure risk in children with ADHD. Pediatric Neurology, 24(2), 99-102.
- Bowen, R.W., Wright, B.A. & Zecker, S.G. (2001). Pattern masking deficits associated with dyslexia: An analysis of psychometric functions, in Vision Science and Its Applications, OSA Technical Digest (Optical Society of America, Washington, D.C.), 60-63.
- Cunningham, J., Nicol, T., Zecker, S.G., Bradlow, A. & Kraus, N. (2001). Neurobiologic responses to speech in noise in children with learning problems: Deficits and strategies for improvement. Clinical Neurophysiology, 112, 758-767.
- Cunningham, J., Nicol, T., King, C., Zecker, S.G. & Kraus, N (2002). Effects of noise and cue enhancement on neural responses to speech in auditory midbrain, thalamus and cortex. Hearing Research, 169, 97-111.
- Hayes, E.A., Warrier, C.M., Nicol, T.G., Zecker, S.G. & Kraus, N. (2003). Neural plasticity following auditory training in children with learning problems. Clinical Neurophysiology, 113, 1-12.

- Wright, B.A., Zecker, S.G. & Reid, M.D. (2003). Learning problems, delayed perceptual development, and puberty. The Journal of the Acoustical Society of America, 113, 4(2), 2208.
- Zecker, S. G. (2004). Attention-deficit/hyperactivity disorder: Information for school-based practitioners. Neurophysiology and Neurogenic Speech and Language Disorders, October, 8-14.
- Wright, B. A. and Zecker, S. G. (2004). Learning problems, delayed development, and puberty. Proceedings of the National Academy of Sciences USA, 101(26), 9942-9946.
- Banai, K., Nicol, T., Zecker, S. G. & Kraus, N (2005). Brainstem timing: Implications for cortical processing and literacy. Journal of Neuroscience, 25(43), 9850-9857.
- Russo, N., Nicol, T., Zecker, S. G., Hayes, E. & Kraus, N. (2005) Auditory training improves neural timing in the human brainstem. Behavioural Brain Research, 156, 95-103.

PUBLICATIONS: BOOK CHAPTERS

- Johnson, D.J., & Zecker, S.G. (1991). Visual processing and dyslexia. In J. Stein, (Ed.), Vision and visual dysfunction, Vol. 13. London: MacMillan.

PRESENTATIONS: INVITED (LAST TEN YEARS)

- (1996). Attention deficit disorder and giftedness, Center for Talent Development, Northwestern University, Evanston, IL.
- (1997). Understanding your child's underachievement: Working with the school, Opportunities for the Future Conference, Evanston, IL.
- (1997). Learning and attention problems in children with giftedness, at Center for Talent Development, Northwestern University, Evanston, IL.
- (1998). Attention Deficit Hyperactivity Disorder: Identification and Intervention, at Center for Talent Development, Northwestern University, Evanston, IL.
- (1998). Learning Problems in the Gifted Population, at Center for Talent Development, Northwestern University, Evanston, IL.
- (2001). Listening learning and the brain: Auditory processing in exceptional children. At Illinois Branch of the International Dyslexia Association, Oak Brook, IL.
- (2002) Doubly exceptional: Learning and attention problems in children who are gifted. At Center for Talent Development Lecture Series, Northwestern University, Evanston, IL
- (2002) Attention-Deficit/Hyperactivity Disorder and Related Behavior Disorders of Childhood and Adolescence: Identification, Diagnosis and Treatment. At the International Conference on Special Education, Taipei, Taiwan, Republic of China.
- (2002) Attention-Deficit/Hyperactivity Disorder in the Classroom. At Chia-Yi National University, Chia-Yi, Taiwan, Republic of China.
- (2003) Diagnosis and Treatment of ADHD in College-Age Students. Keynote Speaker at South Suburban College Faculty Development Day, South Holland, Illinois.
- (2003) Auditory Processing and Listening Comprehension Disorders: Diagnosis and Treatment. At the International Conference on Special Education, Taipei, Taiwan, Republic of China.
- (2003) Mathematics Disorder in Children: Deficient Processes Underlying Learning. At Swiss-

German International School, Hong Kong.

- (2004). Approaches in the identification of learning disabilities and their implications. At Escuela Lincoln, San Isidro, Buenos Aires, Argentina.
- (2004). Planning in-school accommodations for children with attention-deficit/hyperactivity disorder. At Belgrano Day School, Buenos Aires, Argentina.
- (2004). Mathematics disabilities: Procedural and retrieval deficits. At Hyde Park Day School, Chicago, Illinois.

PRESENTATIONS: CONTRIBUTED (LAST 12 YEARS)

- (1993). The effect of in-utero cocaine exposure on speech and language development, at the Society of Perinatal Obstetricians Annual Meeting, San Francisco, CA. (with C. Carrico, S. McGregor and D. Rutherford)
- (1993). Teachers' subjective measurement of modality-specific attention subtypes, at the Eastern Psychological Association Conventon, Arlington. VA.
- (1993). Articulation development in preschool-age children prenatally exposed to cocaine, at the American Speech-Language Hearing Association (ASHA), Anaheim, CA. (with C. Carrico, D. Rutherford and S. McGregor)
- (1993). Language development in preschool-age children prenatally exposed to cocaine, at the American Speech-Language Hearing Association (ASHA), Anaheim, CA. (with C. Carrico, D. Rutherford and S. McGregor)
- (1994). Speech and language abilities of preschool children prenatally exposed to cocaine, at the 16th annual Interdisciplinary Health Care Team Conference, Chicago, IL. (with C. Carrico and D. Rutherford)
- (1994). A teacher rating scale for modality-specific attention deficit disorder, at the Midwestern Psychological Association, Chicago, IL. (with R. Matteson and V. Chang)
- (1994). Older adult compliance with professional advice in hearing loss management, Gerontological Society of America convention, Atlanta, GA (with D. Garstecki, S. Erler, C. Longinotti, and W. Davis).
- (1995). Cultural and socioeconomic factors in the diagnosis of attention-deficit hyperactivity disorder, at the Eastern Psychological Association, Boston, MA. (with C. J. Newton)
- (1995). The relationship between the discriminability of formant transitions and certain cognitive measures, at the Acoustical Society of America, New York, NY. (with T. Carrell, N. Kraus, and T. McGee)
- (1995). A controlled study of EEG biofeedback as a treatment for attention-deficit disorders, at the Association for Applied Psychophysiology and Biofeedback, Cincinnati, OH (with S. Sheinbaum, C. J. Newton, III, and J. Rosenfeld)
- (1996). The relation between psychoeducational measures of auditory processing ability and speech discrimination abilities in normally-achieving children, children with attention-deficit hyperactivity disorder and children with learning disabilities, at the Eastern Psychological Association, Philadelphia, PA (with N. Kraus, T. McGee, T. Nicol, and T. Carrell).
- (1997). Diagnostic and intervention issues in Attention-Deficit-Hyperactivity Disorder and associated non-compliant behavior, at Learning Disabilities Association of America Conference, Chicago, IL (with M. McCanna and L. Smith).

- (1997). Auditory neurophysiologic responses and discrimination deficits in children with learning disabilities, at Learning Disabilities Association of America Conference, Chicago, IL.
- (1998). Speech discrimination and auditory processing abilities in children with attention-deficit disorder and children with learning disabilities, at American Educational Research Association, San Diego, CA.
- (1998). Differential rates of diagnosis using the three DSM's: Practical and theoretical implications, at the 10th Annual International ChADD conference, New York (with J. Lin, B. Trommer, and J. Hoeppner).
- (1998). Stimulant medication and specific sleep-related behaviors: Differential effects, at the 10th Annual International ChADD conference, New York (with P. Herzberg, B. Trommer, and J. Hoeppner).
- (1998). The time course of auditory learning, at the 135th meeting of the Acoustical Society of America, Seattle (with K. Tremblay, N. Kraus, and T. McGee).
- (1998). Assessing effects of cocaine exposure on communication using culturally-appropriate tests, at the American Speech-Language Hearing Association, San Antonio (with C. Carrico and D. Rutherford).
- (2000). Doubly exceptional: Children who are gifted and have learning disabilities. At Illinois Association for Gifted Children, Chicago, IL.
- (2000). Brain/behavior changes and auditory training programs. At Association for Research in Otolaryngology, St. Petersburg Beach, FL: (with J. Zhang, E. Hayes, T. Nicol, J. Cunningham, B. Wible, A. Bradlow and N. Kraus).
- (2001). Pattern masking deficits associated with dyslexia. At Association for Research in Vision and Ophthalmology, Monterey, CA. (with R. Bowen and B. Wright).
- (2001). Auditory processing and neural plasticity in response to auditory-perceptual training in children with learning problems. At Association for Research in Otolaryngology, St. Petersburg Beach, FL: (with E. Hayes, B. Wible, and N. Kraus).
- (2002). Audiovisual integration of speech in children with learning disabilities: The McGurk effect. At Association for Research in Otolaryngology, St. Petersburg Beach, FL: (with E. Hayes, K. Tiippana, M. Sams and N. Kraus).
- (2002). Patterns of cortical hemispheric asymmetry to speech sounds in normal and learning-impaired children. At Association for Research in Otolaryngology, St. Petersburg Beach, FL. (with D. Abrams, T. Nicol and N. Kraus).
- (2002). Long-term perceptual and neurophysiological changes following auditory training in children with learning problems. At Cognitive Neuroscience Annual Meeting, San Francisco, CA. (with E. Hayes and N. Kraus).
- (2003) Encoding of speech sounds in quiet and background noise in the brainstem: Normal and learning-impaired children. At Association for Research in Otolaryngology, Daytona Beach, FL.
(with N. Russo, G. Musacchia, T. Nicol and N. Kraus).
- (2003) Learning problems, delayed perceptual development and puberty. Acoustical Society of America, 145th Meeting, Nashville, TN. (with B. Wright and M. Reid).
- (2003). The relationship between auditory processing and academic achievement. At American Speech-Language Hearing Association, Chicago. IL.

- (2003). Normal and learning-impaired children's brainstem response to speech. At American Speech-Language Hearing Association, Chicago. IL. (with G.A. Musacchia, N. Russo, T. Nicol, & N. Kraus).
- (2003). Training of learning impaired children: Cognitive, perceptual and physiologic change. At American Speech-Language Hearing Association, Chicago. IL. (with E. Hayes, D. Abrams, T. Nicol, C. Warrier & N. Kraus).
- (2003). Delayed perceptual development and auditory-based learning disabilities. At American Speech-Language Hearing Association, Chicago. IL. (with B. Wright and M. Reid).
- (2004). Brainstem timing in learning disabled children with excessive auditory backward masking. At Association for Research in Otolaryngology, Daytona Beach, FL (with K. Johnson, T. Nicol, B. Wright & N. Kraus).
- (2004). Auditory training improves neural timing in the human brainstem. At Association for Research in Otolaryngology, Daytona Beach, FL (with N. Russo, T. Nicol, E. Hayes & N. Kraus).
- (2005). Speech evoked brainstem deficits in learning impaired children with poor temporal resolution. At American Audiological Society, Phoenix, AZ (with K. Johnson, T. Nicol & N. Kraus).
- (2005) Cortical and cognitive consequences of brainstem timing deficits. At Association for Research in Otolaryngology, New Orleans, LA.

RESEARCH IN PROGRESS

- Wright, B., Zecker, S.G. & Bowen, R.W. Abnormal perceptual masking of nonlinguistic auditory and visual stimuli in dyslexia. In preparation.
- Zecker, S. G., Trommer, B.L., & Hoeppepner, J. A double blind evaluation of the effectiveness of methylphenidate on academic achievement and behavior in children with attention deficit disorder.
- Zecker, S. G., Trommer, B., Hoeppepner, J., & Lin, J. Differential validity of rating scales used in the diagnosis of attention deficit disorder.
- Zecker, S. G., Kraus, N, & Nicol, T. Listening, learning and the brain: The underlying electrophysiology of speech processing.
- Zecker, S. G., & Wright, B. Auditory and visual masking in children nonverbal learning disabilities.
- Zecker S. G., Trommer, B., & Herzberg, P. The effect of stimulant medication on sleep in children with Attention-Deficit-Hyperactivity-Disorder.

COMMITTEES: DEPARTMENT AND UNIVERSITY

- | | |
|-----------|---|
| 1985-1988 | Member, Communication Sciences and Disorders Basic Science Committee. |
| 1985-1999 | Member, Communication Sciences and Disorders Committee on |

	Aging.
1985-2003	Member, Communication Sciences and Disorders Computer Committee.
1992-2003	Member, Communication Sciences and Disorders Curriculum Committee (Chair, 1994-1996 and 2002-present)
1991-1996	Member, School of Speech Honors Convocation Committee
1992-2002	Member, University Parking and Traffic Committee (Chair, 1994-2002)
1998-1999	Member, Evanston Campus Planning Committee
2001-2005	Member, School of Communication Facilities Committee
2005	Member, Strategic Planning Committee

PROFESSIONAL MEMBERSHIPS

Learning Disabilities Association of America
International Dyslexia Association
Children and Adults with Attention Deficit Disorder
Midwest Neuropsychology Group
Midwestern Psychological Association
Eastern Psychological Association
Professionals in Learning Disabilities
Fellow, International Association for Research in Learning Disabilities

COURSES TAUGHT

Information Processing and Learning Disabilities (Spring and Summer 1986-1988, Spring 1991)
Psychological and Educational Evaluation in Learning Disabilities (Fall 1985-1988, 1990-1994)
Advanced Statistics (Spring 1986-2000, 2003-5)
Experimental Design in Communicative Disorders (Winter 1986-2000)
School-Age Diagnostic Clinic (Winter 1986-1999)
Brain and Cognition (Spring and Summer, 1989; Spring 1998)
Mathematics and Learning Disabilities (Summer 1990-1991, 1993, 1995-2000, 2004; Spring 1992, 1994, 2001, 2003)
Attention Deficit Disorder (Summer 1992-2004)
Advanced Seminar on Attention (Fall 1994)
Psychoeducational Assessment and Testing Principles (Fall 1985-1997, 2001-2005)
Diagnostic Procedures for Exceptional Children (Fall 1998-2000)
Foundations of Research in Learning Disabilities (Winter 2001-2002)
Experimental and Theoretical Aspects of Learning Disabilities (Spring 2001-2)

Nature and Measurement of Intelligence (Spring 2000, 2002, Winter 2004)

DISSERTATION COMMITTEES: CHAIRED

1989	Karen Hux	<u>Performance on Selected Measures of Linguistic and Verbal Problem Solving Skills Following Severe Closed Head Injury.</u>
1991	Randy Partridge	<u>Individual Differences in the Neuropsychology of Reading.</u>
1991	Nancy Smith	<u>Self-Concept in College Students with Learning Disabilities.</u>
1993	Donald Compton	<u>The Effect of Word Frequency and Orthographic Redundancy on Word Recognition of Children Who are Good and Poor Readers.</u>
1993	Charise Mita	<u>Acquisition of Event Knowledge by Young Children: Effects of Differential Exposure and Elicitation Procedures.</u>
1994	Mark Driscoll	<u>The Development of an Objective Assessment Tool for Attention Deficit Disorder</u>
1994	Liane Grayson	<u>Lexical Representation and Access: What do We Do with Compounds?</u>
1997	Jane Drueck	<u>Conceptual Understanding and Solution Procedures for Double-Digit Addition and Subtraction in Average Math Achievers, Low Math Achievers, and Low Math Achievers at Risk for Learning Disabilities.</u>
1999	Hsiu-Fei Lee	<u>Factors Influencing Early Computational Skills in Taiwanese Children with Average and Below Average Achievement in Mathematics.</u>
2001	Cynthia Dupuy	<u>The Role of Working Memory and Transcription Automaticity in Written Language Among Adolescents with Learning Disabilities: A Comparison of Production by Hand and by Computer</u>
2001	Victor Chang	<u>The Assessment of Attention/Deficit Hyperactivity Disorder: An Investigation of Diagnostic Practice and Specific Areas of Concern Across Health Care Providers</u>
2002	Sarah Valliath	<u>The Efficacy of a Computer-Based Phonological Awareness Training Program: Effects on Phonological Awareness, Reading and Spelling</u>

OTHER UNIVERSITY ACTIVITIES

1985-2003	Member, Program in Language and Cognition
2003-2005	Program Head, Language and Cognition
1986-1989	Program Coordinator, Human Communication Sciences
1989-1992	Faculty Associate, Communications Residential College
1991-1999	Advisor, Human Communication Sciences
1992-1999	Faculty Associate, Willard Residential College

OTHER PROFESSIONAL ACTIVITIES

1995-1996	Grant reviewer, National Science Foundation, Instrumentation and Laboratory Improvement Competition, Arlington, VA.
1996, 1998 Curriculum	Grant reviewer, National Science Foundation, Course and Development Competition, Arlington, VA.
1998-present	Board of Professional Advisors, Cognitive Concepts, Inc., Evanston, IL.
2001, 2003	Grant Reviewer, International Dyslexia Association Grant Program.
2002-present	Editorial Review Board, <u>Learning Disabilities: Research and Practice</u>
2003-present	Consultant, National Board of Medical Examiners, Philadelphia, PA

**National Board of Medical Examiners
Consultant Review Form**

Consultant: STEVEN G. ZECKER, PHD

Case Review Hours: 3.25

Due Date: 1/19/05

Conference Hours: 0

Examinee: Scheibe, Trenton James

USMLE Step 2 CK

USMLE ID#: 5-058-603-1

Diagnosis is NOT supported by the documentation

Accommodation is NOT supported and justified

RECEIVED

JAN 20 2005

Disability Services

Steven G. Zecker, Ph.D.
Clinical Psychologist
2103 Ridge Avenue
Evanston, Illinois 60201
(847) 866-6933

January 18, 2005

J. Abram Doane, M.A., J.D.
Manager, Disabilities Services
National Board of Medical Examiners
3750 Market Street
Philadelphia, PA 19104

Dear Mr. Doane:

I am writing concerning the materials submitted to your office by Trenton James Scheibe, M.D., who has requested special accommodations for taking Step 2 (Clinical Knowledge) of the United States Medical Licensing Exam (USMLE). Specifically, in his request, Dr. Scheibe indicates that he has been diagnosed with learning disabilities (reading disorder), and that because of these disabilities he requires an extended time (double-time) testing accommodation to allow him to successfully complete Step 2 (CK) of the USMLE. Dr. Scheibe reports that he has a history of having received a similar accommodation during his medical school career at the University of Texas-Houston Medical School.

In support of his request for an extended time accommodation, Dr. Scheibe has submitted considerable supporting documentation, including 1) a personal statement, dated 10-19-04, indicating his reasons for submitting this request; 2) Dr. Scheibe's completed "Request for Test Accommodations" form, dated 10-19-04; 3) a 'Questionnaire for USMLE Step 1 and Step 2 Applicants Requesting Test Accommodation' form, completed and signed by Dr. Scheibe on 1/6/03; 4) a 'Certification of Prior Test Accommodations' form, dated 1-6-03, from M.C. McNeese, Associate Dean of Student Affairs at the University of Texas-Houston Medical School, verifying that Dr. Scheibe had received an extended time accommodation while a student in medical school; 5) the results of a psychological assessment conducted in September and October 2001 by D. Lachar, Ph.D., psychologist and Professor at the University of Texas-Houston Medical School; 6) an email from Dr. Lachar to Dr. Scheibe, dated 12-8-04, in which he explains the diagnostic process he used in the 2001 evaluation; 7) the results of a neuropsychological evaluation conducted in August 2004 by F.W. Theye, Ph.D., a psychologist in the Department of Clinical Neuropsychology at the Marshfield Clinic in Marshfield, Wisconsin; 8) a letter to Dr. Scheibe from Dr. Theye, dated 11-23-04, in which he provides scores based on age-based norms from the August 2004 evaluation; 9) a letter from C.M. Featherman, Ph.D. Assistant Vice President, Examinee Support Services at NBME, dated 3-24-03, in which she informs Dr. Scheibe that his earlier request for accommodations on Steps 1 and 2 of the USMLE had been denied; 10) a letter from your office, dated 11-10-04, in which you

describe to Dr. Scheibe the type of updated information he would need to submit to the NBME as a part of his request for accommodations; 11) a letter to Dr. Scheibe from J. Orlemann, Case Coordinator in Disability Services at the NBME, dated 12-7-04, in which she requests that Dr. Scheibe obtain additional information from Dr. Lachar regarding the scores reported in his 2001 assessment; 12) a letter from Dr. Lachar to Ms. Orlemann, dated 12-16-04, in which he provides the requested scores and offers additional support for Dr. Scheibe's request for accommodations; 13) photocopies of Dr. Scheibe's school transcripts from a) elementary school in Sheboygan, Wisconsin (1974-1981), b) high school in Marshfield, Wisconsin (1984-1987), c) undergraduate college years at Marquette University and the University of Wisconsin-Milwaukee (1987-1991), d) law school at Marquette University and the University of Houston (1991-1995) and e) medical school at the University of Texas-Houston Medical School (1997-2003); and 14) the results of previous standardized testing, including a) Stanford Achievement Test results from 1978, 1979, 1980 and 1981, b) Differential Aptitude Test results from 1982 and 1983, and c) Stanford Test of Academic Skills results from 1984 and 1986.

According to the documentation provided by Dr. Scheibe, he had no previous history of evaluations before 2001. He states that he has always been a slow reader and that he frequently found it difficult to complete assignments and examinations in the time allowed. Despite this reported difficulty, Dr. Scheibe was a highly successful student throughout his early academic career. A review of the transcripts he provided indicates mostly grades of 'A' with some grades of 'B' while an elementary school student. In high school he received no grade lower than 'A-' and graduated 6th in a class of 281 students. Significantly, this was apparently achieved without educational accommodations of any type. He obtained consistently good grades (all within the 'A' and 'B' range) in his undergraduate work at Marquette University and graduated cum laude with a 3.53 grade point average, again without having received accommodations. In law school his grades were in the 'A/B' range while attending Marquette University and in the 'B/C' range following his transfer to the University of Houston. While in medical school, Dr. Scheibe was required to repeat two courses but obtained otherwise passing grades. Concerns about his difficulties in medical school, especially on board examinations, led him to seek a psychological evaluation from D. Lachar, Ph.D. at the University of Houston in September and October 2001.

Dr. Lachar's evaluation of Dr. Scheibe's mental ability (using the Wechsler Adult Intelligence Scale-III (WAIS-III)) indicated that his Verbal IQ score (113) placed him in the High Average range, while his Performance (nonverbal) abilities were higher (124) and fell within the Superior range. Dr. Scheibe's overall mental ability fell at the upper end of the High Average range (119), a score that is identical to one obtained on the Otis-Lennon intelligence test when Dr. Scheibe was in sixth grade (according to his elementary school transcript). All index scores on the WAIS-III were in the High Average to Superior range. Dr. Lachar's testing further indicated that Dr. Scheibe was performing in the Average level or higher in all tests measuring memory functioning and in the Average to Superior range on a number of tests assessing reading and mathematical skills. According to Dr. Lachar's report, Dr. Scheibe did score poorly on one measure of reading, the Nelson-Denny Reading Test. On this measure, Dr. Scheibe's vocabulary was determined to be High Average, his comprehension Average, and reading rate Low Average. Dr. Lachar appears to rely heavily on Dr. Scheibe's low reading rate score in providing Dr. Scheibe with the diagnosis of Reading Disorder. Unfortunately, the reading rate score from the Nelson-Denny is problematic; it is obtained by simply asking the examinee to report how many words he has read during a single 60-second interval. It tends

to not be a reliable measure and a number of studies have questioned its validity as a measure of reading speed. The use of the Nelson-Denny in the diagnostic setting is discouraged by many professionals. Moreover, the reliance on a single score to provide a diagnosis is a practice that may lead to errors in diagnostic decision making. I note from the score summary sheet provided by Dr. Lachar that all other tests of reading administered (from the Woodcock-Johnson Psychoeducational Battery-3rd Edition: WJ-III) yielded scores in the Average range or higher. Importantly, Dr. Scheibe's score on the WJ-III's Reading Fluency measure, a different (and more technically sound) measure of reading speed and fluency, fell at the lower limits of the High Average range (standard score of 110). In my opinion, these results are not consistent with the diagnosis of Reading Disorder using the DSM-IV criteria. All other scores reported by Dr. Lachar in his report fall within the Average range or higher, with many at least one standard deviation above average. In conclusion, Dr. Lachar's testing did not provide evidence to support Dr. Scheibe's claim that he had significant learning disabilities that would qualify him for accommodations under the Americans with Disabilities Act (ADA).

In Dr. Scheibe's most recent evaluation, completed by Dr. Theye in August 2004, the results again led to the diagnosis of Reading Disorder. In reviewing Dr. Theye's report, I note that much of his discussion is not of current test results, but rather his interpretation of Dr. Lachar's results as well as those obtained on standardized tests while Dr. Scheibe was an elementary school student. Dr. Theye carefully discusses a number of these latter scores, which he states are indicative of a learning disability. I would begin my criticism of this approach by pointing out that these types of group administered achievement tests are not considered useful in the diagnosis of learning disabilities; they lack the necessary reliability (and hence, validity) to serve that role. Additionally all of Dr. Theye's discussion of these scores focuses on relative weaknesses and discrepancies among scores and not the degree of impairment relative to average functioning individuals. For example, in the seventh grade, Dr. Scheibe received a 'total reading' standard score on the Stanford Achievement Test that placed him at the 84th percentile, a result that puts him solidly within the High Average range. He obtained a 'total math' score on this same test that placed him in the Very Superior range (at the 99th percentile). Dr. Theye appears to use this difference in test scores to support the diagnosis of a reading disorder; that is, because Dr. Scheibe scored substantially lower on the total reading score than the total math score, he must therefore have had a reading disorder, according to Dr. Theye's thinking. However, Dr. Theye is not considering the fact that the reading score is solidly above average, and that such a score cannot be taken as indicative of a disability. It does appear that Dr. Scheibe's math skills were stronger than his reading skills at that time, but such variability across scores is commonplace among children and adults and is not by itself indicative of a disability in any way. My review of all of the standardized test scores shows that all showed that Dr. Scheibe had at least average achievement, regardless of the grade in which the testing was completed or the subject being tested. This is also not a result that is supportive of a diagnosis of a learning disability. Dr. Theye did administer six reading-related tests from the Woodcock-Johnson Psychoeducational Battery-3rd Edition and the Wechsler Individual Achievement Test-2 (WIAT-2). I note from Dr. Theye's report that all of these measures (which assessed word identification, reading rate and fluency and comprehension) yielded scores that placed Dr. Scheibe in the Average range or higher. Dr. Theye states that the WJ-III Reading Fluency score (a percentile of 54, which corresponds to a standard score of 102) is "remarkable" in comparison to Dr. Scheibe's other, higher, scores. Again, this score is somewhat lower (although not significantly so) than Dr. Scheibe's word identification and comprehension scores, but it is Average and as such can not be taken as evidence for a disability that causes a significant functional

impairment in comparison to others of the same age from the general population.

To qualify for the requested accommodation under the Americans with Disabilities Act (ADA) it must have been demonstrated that Dr. Scheibe is unable to learn and achieve without accommodation at an average or better level in comparison to a representative sample of his peers from the general population. However, in evaluating all of the information provided by Dr. Scheibe to support his request for an extended time accommodation, I did not see sufficient evidence to support the diagnosis that has previously been provided, and as a result, I do not consider Dr. Scheibe's request for this accommodation to be warranted. Thus, my recommendation is that you deny Dr. Scheibe's request for accommodations for Step 2 (CK) of the USMLE.

Please feel free to contact me again if you have any questions about my evaluation of Dr. Scheibe's submitted documentation or if I may provide you with any additional information regarding Dr. Scheibe's request for accommodations.

Sincerely;

Steven G. Zecker, Ph. D.
Clinical Psychologist
Illinois Registration 071-003595

Steven G. Zecker, Ph.D.

Clinical Psychologist

2103 Ridge Avenue

Evanston, Illinois 60201

(847) 866-6933

November 20, 2005

Michael P. Gallagher
Melli, Walker, Pease & Ruhly, S.C.
10 East Doty, Suite 900
Madison, WI 53703

Dear Mr. Gallagher:

You have asked for my opinion regarding the materials submitted by Trenton James Scheibe, M.D., who has requested that the National Board of Medical Examiners (NBME) provide him with special accommodations for taking the Step 2-CK (Clinical Knowledge) examination of the United States Medical Licensing Exam (USMLE). Dr. Scheibe indicates in his request that he has been diagnosed with learning disabilities (LD; specifically, Reading Disorder), and that because of these disabilities he, in accordance with the Americans with Disabilities Act (ADA), requires an extended time (double-time) testing accommodation to allow him to successfully complete Step-2 CK of the USMLE.

In forming my opinion, I reviewed considerable supporting documentation, much of which was provided by Dr. Scheibe to the NBME in January 2005, including 1) a personal statement provided to the NBME, dated October 19, 2004, in which Dr. Scheibe provides some history of what he describes as his academic struggles and indicates his reasons for submitting his request for accommodations; 2) Dr. Scheibe's completed NBME "Applicant's Request for Test Accommodations" form, dated October 19, 2004; 3) an NBME "Certification of Prior Test Accommodations" form, dated January 6, 2003, from Dr. Margaret C. McNeese, Associate Dean of Student Affairs at the University of Texas-Houston Medical School, verifying that Dr. Scheibe had received an extended time accommodation while a student at the school; 4) the results of a psychological assessment conducted in September and October 2001 by David Lachar, Ph.D., psychologist and Professor at the University of Texas-Houston Medical School; 5) the results of a neuropsychological evaluation conducted in August 2004 by Frederick W. Theye, Ph.D., a psychologist in the Department of Clinical Neuropsychology at the Marshfield Clinic/St. Joseph Hospital in Marshfield, Wisconsin; 6) an undated copy of Dr. Theye's curriculum vitae; 7) a letter to Dr. Scheibe from Joy Orlemann, Case Coordinator in Disability Services at the NBME, dated December 7, 2004, in which she requests that Dr. Scheibe obtain additional information from Dr. Lachar regarding the scores reported in his 2001 assessment; 8) a letter from Dr. Lachar to Ms. Orlemann, dated December 16, 2004, in which he provides the requested scores and offers additional support for Dr. Scheibe's request for accommodations; 9) a letter to Dr. Scheibe from Carol M. Featherman, Ph.D. Assistant Vice President, Examinee Support Services at

NBME, dated March 24, 2003, in which she informs Dr. Scheibe that his earlier request for accommodations on Steps 1 and 2 of the USMLE had been denied; 10) a letter from J. Abram Doane, M.A., J.D., Manager of Disability Services at the NBME, dated November 10, 2004, in which Mr. Doane indicates to Dr. Scheibe that the materials he had submitted to the NBME were incomplete, and describing the nature of updated information he should submit to the NBME in order to complete his request for accommodations; 11) a letter to Dr. Scheibe from Dr. Theye, dated November 23, 2004, in which Dr. Theye provides scores derived from age-based norms from the August 2004 evaluation; 12) a photocopy of Dr. Scheibe's school transcripts from a) elementary school in Sheboygan, Wisconsin (covering the years 1974-1981), b) Marshfield High School in Marshfield, Wisconsin (covering the years 1983 to 1987), c) Marquette University in Milwaukee, Wisconsin (covering the years 1987 to 1991), d) the University of Wisconsin-Milwaukee (covering the years 1991 to 1992), e) Marquette University Law School in Milwaukee, Wisconsin (covering the years 1991 and 1992), f) the University of Houston School of Law (covering the years 1993 to 1995), and g) and the University of Texas Health Science Center at Houston (covering the years 1997 to 2003); 13) the results of previous standardized testing, including a) annual Stanford Achievement Test results from 1978 to 1982, b) Differential Aptitude Test results from 1983, c) Stanford Test of Academic Skills results from 1984 and 1986; and d) American College Testing (ACT) scores from April 1986; 14) my letter to Mr. Doane at the NBME, dated January 18, 2005, in which I provide my opinion and recommendation about Dr. Scheibe's request for accommodation; and 15) a letter from Mr. Doane to Dr. Scheibe, dated January 24, 2005, in which Mr. Doane indicates that Dr. Scheibe's request for testing accommodations on the Step 2-CK examination had been denied. I also received a "Disclosure of Expert Testimony", submitted by Dr. Scheibe on November 2, 2005 to the U.S. District Court for the Western District of Wisconsin.

Dr. Scheibe's request that he should be provided with an extended time accommodation on Step 2-CK of the USMLE is based on his claim that he has a disability (specifically, Reading Disorder) that causes him to experience a significant functional impairment in comparison to other individuals of the same age in the general population. In my opinion, Dr. Scheibe fails to demonstrate that he does in fact have a disability for two important reasons. First, learning disabilities frequently manifest themselves in the form of academic difficulties at an early age and are usually diagnosed in childhood or adolescence. However, according to the documentation provided by Dr. Scheibe, he had no previous history of evaluations before 2001. Similarly, Dr. Scheibe has been a highly successful student throughout his academic career. A review of the academic transcripts he provided for review indicates mostly grades of 'A' or 'A-' with some grades of 'B' or 'B+' while an elementary school student. At Marshfield High school he received no grade lower than 'A-' and graduated 6th in a class of 281 students. Significantly, these grades were apparently achieved without educational accommodations of any type. Dr. Scheibe obtained consistently good grades (all within the 'A' and 'B' range) in his undergraduate work at Marquette University and graduated cum laude with a 3.53 grade point average, again without having received accommodations. In law school his grades placed him within the 'A/B' range while attending Marquette University and within the 'B/C' range following his transfer to the University of Houston. While in medical school, Dr. Scheibe was required to repeat two courses, but he obtained otherwise passing grades. In conclusion, based on a review of historical records provided by Dr. Scheibe, I see no evidence of a pattern of academic underachievement that could be associated with a learning disability impacting his reading achievement. To the contrary, Dr. Scheibe was a highly successful student at all levels, and achieved in this manner until medical school.

without having been provided with any accommodations.

Second, for Reading Disorder to be present, there must be sufficient evidence of a disability that significantly interferes with academic achievement or activities of daily living that require reading. Despite having undergone two evaluations since 2001, I do not see any evidence that indicates that Dr. Scheibe has a pattern of academic difficulty that can be attributed to a disability. To the contrary, Dr. Scheibe consistently obtained scores that placed him in the average range or better compared to his same-age peers, a result that is incompatible with a disability affecting learning or academic achievement. For example, Dr. Lachar's evaluation indicated that Dr. Scheibe was performing in the average level or higher in all tests measuring memory functioning and in the average to superior range on a number of tests assessing reading and mathematical skills. According to Dr. Lachar's report, Dr. Scheibe did show a 'weakness' on one measure of reading, the Nelson-Denny Reading Test (NDRT). On the subtests that comprise the NDRT, Dr. Scheibe's vocabulary was determined to be high average, his comprehension average, and reading rate low average. Dr. Lachar appears to rely heavily on Dr. Scheibe's low reading rate score on the NDRT in providing Dr. Scheibe with the diagnosis of Reading Disorder. Unfortunately, the reading rate score from the Nelson-Denny is problematic; it is obtained by simply asking the examinee to report how many words he or she has read during a single 60-second interval. It has been shown to not be a reliable measure (according to the standards that have been established for evaluating the technical merits of tests) and its validity as a measure of reading speed is therefore highly questionable. As a result, the use of the Nelson-Denny in a diagnostic setting is discouraged by many professionals. Moreover, the reliance on a single score to provide a diagnosis (especially when that score falls within the limits of the average range) is a questionable diagnostic practice. I note from the score summary sheet provided by Dr. Lachar that all other tests of reading he administered (from the Woodcock-Johnson Psychoeducational Battery-3rd Edition: WJ-III) yielded scores in the average range or higher. Of particular relevance, Dr. Scheibe's score on the WJ-III's Reading Fluency subtest, a more technically sound measure of reading speed and fluency, fell at the lower limits of the high average range (at a standard score of 110, or higher than 75% of Dr. Scheibe's same-age peers from the general population). In my opinion, these results are not consistent with the diagnosis of Reading Disorder provided by Dr. Lachar, which he indicated was based on the criteria in the Diagnostic and Statistical Manual of the American Psychiatric Association- 4th Edition (DSM-IV). All other scores reported by Dr. Lachar in his report fall within the average range or higher, with many at least one standard deviation above average.

In Dr. Scheibe's most recent evaluation, completed by Dr. Theye in August 2004, the diagnosis of Reading Disorder was again provided. In reviewing Dr. Theye's report, I note that much of his discussion is not of current test results, but rather his interpretation of Dr. Lachar's results as well as those obtained on standardized tests while Dr. Scheibe was an elementary school student. Dr. Theye carefully discusses a number of these latter scores, which he states are indicative of a learning disability. This approach is seriously flawed. To begin with, these group-administered achievement tests (e.g., the Stanford Test of Academic Skills) are not useful in the diagnosis of learning disabilities; they lack the necessary reliability (and hence, validity) to serve that role. They also do not have the necessary specificity to assess an area in sufficient depth and breadth to allow for the diagnosis of a disability to be made. Moreover, all of Dr. Theye's discussion of these scores focuses on relative weaknesses and discrepancies among scores and not the degree of impairment relative to average functioning individuals. For example, in the seventh grade, Dr. Scheibe received a 'Total Reading' standard score

on the Stanford Achievement Test that placed him at the 84th percentile, a result that puts him solidly within the High Average range. He obtained a 'Total Math' score on the Stanford Achievement Test that placed him in the Very Superior range (at the 99th percentile). Dr. Theye uses this difference in reading and math test scores to support the diagnosis of a reading disorder; that is, according to Dr. Theye's reasoning, because Dr. Scheibe scored substantially lower on the Total Reading score than the Total Math score, he must therefore have had a Reading Disorder,. However, Dr. Theye is ignoring the fact that Dr. Scheibe's reading score is solidly above average, and that by definition such a score cannot be taken as indicative of a disability. Variability across individual scores, and especially across achievement areas, is commonly observed among most children and adults and is not indicative of a disability. Rather, it simply demonstrates that most individuals have a pattern of relative strengths and weaknesses that results in an uneven learning profile. My review of each of the standardized test scores provided by Dr. Scheibe shows that all showed that he had at least average achievement, regardless of the grade in which the testing was completed or the subject that was being tested. This result is clearly not supportive of a diagnosis of Reading Disorder. Dr. Theye also administered six reading-related subtests from the WJ-III and the Wechsler Individual Achievement Test-2 (WIAT-2). Dr. Theye's report indicates that all of these measures (which assessed a range of reading abilities including word identification, reading rate and fluency and comprehension) yielded scores that placed Dr. Scheibe in the average range or higher. Dr. Theye states that the WJ-III Reading Fluency score (a percentile of 54, which corresponds to a standard score of 102) is "remarkable" in comparison to Dr. Scheibe's other, higher, scores. This score is somewhat lower than Dr. Scheibe's word identification and comprehension scores, but it is average and as such can not be taken as evidence for a disability.

To summarize, in order to qualify for the requested extended time (double-time) accommodation under the Americans with Disabilities Act (ADA), Dr. Scheibe must have been able to provide evidence that he is substantially limited in his ability to read or learn in comparison to other individuals in the general population. However, in evaluating all of the information provided by Dr. Scheibe to support his request for an extended time accommodation, I did not find any evidence to support the diagnosis of Reading Disorder that has been provided, and as a result, with a reasonable degree of professional certainty I do not consider Dr. Scheibe's request for this accommodation to be warranted. Thus, my recommendation was that Dr. Scheibe's request for accommodations for Step 2 (CK) of the USMLE not be approved.

Please feel free to contact me again if you have any questions about my opinion of Dr. Scheibe's submitted documentation or if I may provide you with any additional information regarding Dr. Scheibe's request for accommodations on the USMLE.

Sincerely;

A handwritten signature in black ink, appearing to read 'S. Zecker', with a long horizontal flourish extending to the right.

Steven G. Zecker, Ph. D.
Clinical Psychologist
Illinois Registration 071-003595